IN THE SUPERIOR COURT OF THE STATE OF DELAWARE IN AND FOR NEW CASTLE COUNTY

| MARIE SMITH, |) | |
|------------------------------|---|--------------------------|
| |) | |
| Plaintiff, |) | |
| |) | C.A. No. N11C-06-098 MMJ |
| V. |) | |
| |) | |
| SHYLAH HALDEMAN a/k/a |) | |
| SHYLAH RINNER, HARRY GREIF |) | |
| and HARRY'S TRANSPORT, INC., |) | |
| a foreign corporation, |) | |
| |) | |
| Defendants. |) | |

Submitted: July 2, 2012 Decided: August 21, 2012

On Defendant's Motion for Summary Judgment **GRANTED**

MEMORANDUM OPINION

David A. Denham, Esquire (argued), Bifferato Gentilotti LLC, Newark, Delaware, Attorneys for Plaintiff

Michael K. DeSantis, Esquire (argued), Law Office of Dawn L. Becker, Wilmington, Delaware, Attorney for Defendant Shylah Haldeman

Michael Crawford, Esquire, Franklin & Prokopik, Wilmington, Delaware, Attorneys for Harry Greif and Harry's Transport, Inc.

JOHNSTON, J.

Plaintiff Marie Smith claims that she suffered personal injuries as the result of a three-car automobile accident. Smith drive the first vehicle. The second vehicle as operated by Defendant Shylah Haldeman. The Third was a tractor-trailer operated by Defendant Harry Greif and owned by Harry's Transport, Inc. The complaint alleges negligence.

Pursuant to Superior Court Rule of Civil Procedure 56(c), Haldeman filed a Motion for Summary Judgment, arguing that the accident was proximately caused by the impact from Greif's failure to stop.

Viewing the facts and all reasonable inferences in the light most favorable to Plaintiff, the non-moving party, the Court finds there are no genuine issues of material fact about Haldeman's alleged liability. For the following reasons,

Defendant Haldeman's motion must be granted.

FACTUAL BACKGROUND

For the purpose of this Motion for Summary Judgment, all facts are set forth in the light most favorable the Plaintiff Smith. On November 3, 2009, Smith was operating her vehicle in heavy traffic. She brought her vehicle to a complete stop. Haldeman was driving directly behind Smith's car and she was able to bring her car to a complete stop without striking Smith's car. Smith observed in her rearview mirror that the vehicle directly behind her came to a complete stop.

Greif was driving directly behind Haldeman's car and he observed

Haldeman's car come to a complete stop. Although Greif tried to stop, he hit

Haldeman's car and pushed it into Smith's car. Smith was injured in this accident.

On June 9, 2011, Plaintiff filed suit against Haldeman and Greif, alleging negligence.

Haldeman filed a Motion for Summary Judgment on May 2, 2012.

Plaintiff's response to Defendant's Motion was filed on June 26, 2012. The Court held oral argument on July 2, 2012.

STANDARD OF REVIEW

Summary judgment is granted only if the moving parties establishes that there are no genuine issues of material fact in dispute and judgment may be granted as a matter of law. All facts are viewed in the light most favorable to the non-moving party. Summary judgment may not be granted if the record indicates that a material fact is in dispute, or if there is a need to clarify the application of law to the specific circumstances. While the non-moving party is entitled to the

¹Super. Ct. Civ. R. 56(c).

²Hammond v. Colt Indus. Operating Corp., 565 A.2d 558, 560 (Del. Super. 1989).

³Super. Ct. Civ. R. 56(c).

benefit of certain inferences,⁴ those inferences must be reasonable.⁵ Inferences draw their life from facts, and without such a factual foundation, they remain speculation.⁶ Issues of negligence are only susceptible to summary adjudication when the moving party establishes the absence of a genuine issue of any material fact.⁷ If the non-moving party bears the burden of proof at trial, yet "fails to make a showing sufficient to establish the existence of an element essential to that party's case," then summary judgment may be granted against that party.⁸

DISCUSSION

Parties' Contentions

Haldeman claims there are no genuine issues of material fact about her lack of liability in the accident. She argues that the deposition testimony demonstrated she was not negligent. At her deposition, Smith testified that she observed that Haldeman's car was completely stopped before the accident and that she "heard a

⁴ Allstate Auto Leasing Co. v. Caldwell, 394 A.2d 748, 752 (Del. Super. 1978); Nutt v. A.C. & S. Co., Inc., 517 A.2d 690 (Del. Super. 1986).

⁵Mergenthaler v. Asbestos Corp. Of America, Inc., 1988 WL 16284, at *5 (Del. Super.).

 $^{^{6}}Id$.

⁷See Lightburn v. Delaware Power & Light Co., 167 A.2d 64, 66 (Del. Super. 1960); Ebersole v. Lowengrub, 180 A.2d 467, 468 (Del. 1962).

⁸Celotex v. Catrett, 477 U.S. 317, 322 (1986).

loud noise before she felt an impact in the rear of her car." Smith's testimony is in conformity with both Defendants' depositions.

Haldeman cited *Reid v. Hint.*⁹ In *Reid*, the plaintiff was the driver of the middle car and was injured in a similar multiple car collision. The Delaware Supreme Court found that the only cause of the accident was the inattentive driving of the rear vehicle's driver, who failed to stop and thus collided with the plaintiff.¹⁰

Smith concedes that although she testified she observed Haldeman's car come to a complete stop before the accident, Haldeman failed to give an estimate of the distance between the first and second car. Smith further argues that Greif's testimony creates multiple issues about whether Haldeman's car stopped a safe distance from Smith's car and whether Haldeman was improperly changing lanes at the time of the accident. Smith claims a jury may draw inferences from the facts that Haldeman was liable for Smith's injury, therefore those issues must be decided by a jury.

Haldeman argues that Smith's suggested inferences are unreasonable. She also asserts that the testimony must be considered as a whole, and that Smith urges

⁹976 A.3d 125 (Del. 2009).

¹⁰*Id.* at 132.

an interpretation of the testimony that takes certain sentences out of context.

ANALYSIS

1. There are no genuine issues of material fact based on undisputed deposition testimony.

Smit has failed to demonstrate genuine issues of material fact as

Haldeman's liability. A fact is material if it "might affect the outcome of the suit

under the governing law." A dispute about a material fact is genuine if "the

evidence is such that a reasonable jury could return a verdict for the nonmoving

party." 12

The facts must be viewed in the light most favorable to the non-moving party. In this case, Smith. Smith testified in her deposition that she "looked in the rearview mirror" and "observed the car behind her was at a complete stop." Smith "heard an impact first." She then "felt the impact." Haldeman's deposition is consistent with Smith's testimony. Haldeman stated that she "brought her vehicle to a complete stop without striking the car." Then she "observed a tractor-trailer behind her." She then "felt an impact in the rear of her vehicle."

¹¹ Anderson v. Liberty Lobby, Inc., 477 US 242, 248 (1986).

 $^{^{12}}$ *Id*.

Further, Greif testified that he observed Haldeman's car stopped in front of him. Greif failed to stop but instead "bumped that car and pushed it into the car in front of that." Greif also made the same statement on the "Drivers Statement Form," which he completed right after the accident.

To establish proximate cause, Smith must prove that "there was a reasonable probability of a causal connection between each defendant's negligence and [her] injury."¹³ The facts in the instant case are similar to the facts in *Reid v. Hint*, in which the Delaware Supreme Court found that the sole cause of the accident was the last driver's inattentive driving.¹⁴ In this case, the facts are undisputed that the impact from Greif's failure to stop pushed Haldeman's car into Smith's car. Smith fails to point to evidence that anything Haldeman did or did not do could have been a proximate cause of the accident.

II. Plaintiff's suggested inferences are unreasonable.

Smith, as the non-moving party, is entitled to the benefit of all reasonable inferences. Smith argues that a jury may find that Haldeman failed to keep a safe

¹³Money v. Manville Corp Asbestos Disease Compensation Trust Fund, 596 A.2d 1372, 1377 (Del. 1991).

¹⁴Reid, 976 A.2d at 132.

distance from Smith's car based on the testimony that Haldeman was not sure about the actual distance between her car and Smith.

Smith further posits that summary judgment must be denied because

Defendants *may* contradict their deposition testimony at trial. This theory has no basis in precedent or sensible jurisprudence.

In their depositions, all parties confirmed that Haldeman's car came to a complete stop without striking Smith's car. Smith also testified that they were driving in heavy traffic at that time.

The mere fact that there was a collision is insufficient to prove negligence. Just because Haldeman hit Smith's car, or Haldeman was behind Plaintiff with a distance less than the statutory safe distance, doe not mean Haldeman acted unreasonably or was following too closely. The only evidence proffered by Smith to prove that Haldeman's act was a proximate cause of Smith's injuries is Haldeman's uncertain estimate about the distance between the cars.

Finally, Smith argues that Haldeman might have been changing lanes improperly based on Greif's descriptions about the cars changing lanes before the accident. However, viewing Greif's deposition as a whole, those descriptions are

¹⁵See Lloyd v. Great Coastal Express, Inc., 2001 WL 880090 at *4 (Del. Super.); Panaro v. Cullen, 185 A.2d 889, 891 (Del.Super. 1962).

merely general descriptions about the traffic situation on the roadway before the accident. Greif's descriptions to not lead to a reasonable inference that Haldeman was improperly changing lanes at the time of the accident. Both Greif's deposition and his Drivers Statement Form demonstrate that Haldeman's car was stopped in front of Greif's vehicle before the accident.

In short, the inferences suggested by Smith are not supported by the record. Therefore, they are speculative and unreasonable. Smith is not entitled to the benefit of unreasonable inferences. Smith has failed to demonstrate the existence of any genuine issue of material fact as to Haldeman's lack of negligence in the accident.

CONCLUSION

Viewing the facts and all reasonable inferences in the light most favorable to Plaintiff, the Court finds that there are no genuine issues of material fact as to Haldeman's lack of liability in the accident. Haldeman brought her car to a complete stop without striking Plaintiff's car before the accident. Haldeman's car collided with Plaintiff's car when Greif failed to stop in time and ran into Haldeman. All deposition testimony is consistent with the conclusion that Haldeman acted reasonably at the time of the accident. Plaintiff's arguments that a jury may draw inferences that Haldeman failed to keep a safe distance, or was

improperly changing lanes at the time of the accident, are unreasonable. Plaintiff is not entitled to the benefit of such unreasonable inferences.

THEREFORE, Defendant Haldeman's Motion for Summary Judgment is hereby **GRANTED**.

IT IS SO ORDERED.

1st Mary M. Johnston

The Honorable Mary M. Johnston